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MEMORANDUM

DATE: February 27, 2013

TO: The Honorable Members of the Delaware General Assembly

FROM: Terri A. Hancharick, Chairperson
GACEC

RE: **House Bill No. 24 (School Attendance Requirements)**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill No. 24 relating to school attendance requirements. According to the synopsis, the bill would have two effects.

First, under current law, the principal may refer a case for prosecution at any time up to the 30th day of unexcused absences but must refer the case for prosecution following the 30th day. See Title 14 Del.C. §2725(c). The bill substitutes "20th" day for "30th" day, thereby reducing the discretion of the principal. Reasonable persons may differ on whether abbreviating the discretion of the principal is preferable.

Second, under current law, a set of sequential activities is set in motion for children in grades K-5:

- after 10th day of unexcused absence, notice to parents and visiting teacher;
- following 15th day of unexcused absence, notice to parents to appear at school within 10 days of notice for conference;
- following 30th day of unexcused absence, referral for prosecution; and
- following completion of prosecution and subsequent failure of student to return to school within 5 school days, referral to DSCY&F.

Title 14 Del.C. §2702(d)

The legislation applies these sequential activities to students in grades K-12.

There are at least two technical problems with the legislation:

A. It establishes inconsistent timetables. Un-amended §2702(d)(2) contemplates a parental conference 25 days after initiation of unexcused absences while proposed §2702(d)(3) contemplates

prosecution 20 days after initiation of unexcused absences. This results in a referral for prosecution prior to the initial parental conference. It also creates some “tension” with Title 14 Del.C. §2125(c) which generally envisions the principal’s referral for prosecution occurring after the parental conference.

B. If the legislation is enacted, Title 14 Del.C. §2702(e) becomes irrelevant. Compare Title 14 Del.C. §2702(d)(1) and 14 Del.C. §2702(e). If §2702(d) is expanded to cover students in grades 6-12, there is no need for §2702(e). It should therefore be stricken as part of the bill.

Finally, the Legislature may wish to consider unintended consequences. Promoting quicker prosecution of parents of students over 16 years of age may prompt students to simply drop out of school. Parents will be faced with incarceration and hefty fines. A first offense is punishable by up to 10 days in jail and a \$300 fine. See Title 14 Del.C. §2729(d). Council queries whether families facing such prosecution will simply opt for withdrawal from school.

Thank you for your time and consideration of our comments and observations. Please feel free to contact me or Wendy Strauss should you have any questions.